

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 24

UNITED STATES PATENT AND TRADEMARK OFFICE

**MAILED**

**MAR 15 2002**

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte DAVID KESSLER  
ALAN C.G. NUTT and RUSSELL J. PALUM

Appeal No. 2002-0621  
Application 08/770,381

ORDER REMANDING TO EXAMINER

An amendment after final was filed by appellants on November 20, 2000 (Paper No. 19). The Advisory Action mailed December 18, 2000 (Paper No. 21) indicated that such amendment would be entered upon filing an appeal. Both, the Appeal Brief filed January 24, 2001 (Paper No. 22) and the Examiner's Answer mailed February 28, 2001 (Paper No. 23) indicate that this

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amendment has been entered. A review of the record indicates the amendment was not entered.

In addition, according to page 3 of the Examiner's Answer mailed February 28, 2001 (Paper No. 23), "[t]he copy of the appealed claims contained in the Appendix to the brief is correct." However, it should be noted that language of claims 11 and 12 in the Appendix differs from its last amended version (see the amendment filed September 24, 1999 (Paper No. 9)).

Accordingly, it is

ORDERED that the application is remanded to the Examiner:

1. for entry of the amendment filed November 20, 2000 (Paper No. 19) and notification to appellants in writing of the action taken;

2. for notification to appellants to submit a corrected Appendix to the Appeal Brief filed January 24, 2001 (Paper No. 22) to replace the existing defective Appendix, or for the examiner to issue a supplemental Examiner's Answer to officially correct the Appendix; and

3. for such further action as may be appropriate.

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It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of the appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS  
AND INTERFERENCES

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